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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,817	11/01/2000	Takeshi Misawa	Q61579	9981

7590 01/26/2006

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EXAMINER

JERABEK, KELLY L

ART UNIT PAPER NUMBER

2612

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/702,817

Applicant(s)

MISAWA ET AL.

Examiner

Kelly L. Jerabek

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-31 and 33-36 is/are pending in the application.
- 4a) Of the above claim(s) 4-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,31 and 33-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on 12/23/2005 and 11/29/2005 have been entered.

Response to Arguments

Applicant's arguments filed 11/29/2005 and 12/23/2005 have been fully considered but they are not persuasive.

Response to Remarks:

Applicant's arguments (amendment 11/29/2005, page 11) state that the amendment to claim 1 includes the subject matter of prior pending claims 2 and 31. The Examiner respectfully disagrees. Prior pending claim 2 claimed "wherein said release switch is positioned substantially at a center in a direction **perpendicular to a**

Art Unit: 2612

longitudinal direction of said body". Newly amended claim 1 claims "said release switch is positioned substantially at the center **in the longitudinal direction** of said vertical body...". Therefore, it can be seen that newly amended claim 1 claims that the release switch is positioned at the vertical center of the camera body whereas prior pending claim 2 claimed that the release switch was positioned at the horizontal center of the camera body.

Applicant's arguments (amendment 12/23/2005, page 10) state that amended claim 1 is generic and therefore if claim 1 is found allowable the remaining non-elected claims should be rejoined and allowed. The Examiner respectfully disagrees. Amended claim 1 states that the release switch is positioned substantially at the center in the longitudinal direction of said vertical body. This limitation is not generic to all species and therefore amended claim 1 is not generic.

Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

Specification

The disclosure is objected to because of the following informalities: Amended claim 1 claims "said release switch is positioned substantially at the center in the longitudinal direction of said vertical body...". Figures 1A and 2 appear to support this

Art Unit: 2612

claim limitation, however the specification does not mention the limitation. The specification only states that the release switch is positioned substantially at a center in a direction perpendicular to a longitudinal direction of said body.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 31, and 33-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Lonka US 6,308,084.

Re claim 1, Lonka discloses an image capturing apparatus for capturing a subject comprising: a vertical body including a front face (display 7, function keys 8, keypad) (figs. 1A,1B) and a back (Lens 13, hand part 2) (figs. 2A, 2B) opposed to the front face; a grip (12, 2, 9) to be grasped by an operator's hand, said grip (12, 2, 9)

Art Unit: 2612

comprising at least a region of the front face (figs. 1A, 1B) and a region of the back (2A, 2B); a release switch (8, circular shaped buttons) provided on the front face of said body in a region other than the part of said grip (col. 3, lines 13-29); a capturing lens (13) provided on the back of said body in a region other than the part of said grip; an image monitor (7) operable to display the subject, said image monitor (7) being provided above said release switch (8, circular shaped buttons) (7 is above 8), and a plurality of operation switches (8, oval shaped buttons) disposed in a vicinity of said release switch (8, circular shaped buttons) and on said front face (figs. 1A, 1B) of said vertical body, and said release switch (8, circular shaped buttons) is positioned substantially at the center in the longitudinal direction of said vertical body and said operation switches (8, oval shaped buttons) are disposed within an area upper than said release switch (8, circular shaped buttons) (oval shaped buttons are above circular shaped buttons (col. 2, line 13 – col. 3, line 35). Lonka states that function keys (8, circular and oval shaped keys) are used for making telephone calls (col. 2, lines 39-42). Lonka further states that when the mobile communications device is activated some of the function keys (8, circular and oval shaped keys) may be used as shutter release buttons for a camera so that a user can press them with a thumb in order to take a picture (col. 3, lines 13-29). Therefore, the Examiner is reading the circular shaped function keys (8, figs. 1A, 1B) as the release switch and the oval shaped function keys (8, figs. 1A, 1B) as the operation switches.

Art Unit: 2612

Re claim 3, the image monitor (7) and the release switch (8, circular shaped keys) disclosed by Lonka are provided on the same plane (figure 1A).

Re claim 31, the operation switches (8, oval shaped keys) disclosed by Lonka are disposed in an upper half-region of the vertical body (figures 1A, 1B).

Re claim 33, the image monitor (7) disclosed by Lonka is disposed farther from the grip than the plurality of operation switches (8, oval shaped keys) (figure 1A).

Re claim 34, Lonka states that the operation switches (8, oval shaped keys) are disposed within an area to which a user's thumb is reachable when the user grasps the grip (col. 3, lines 16-20).

Re claim 35, the lens (13) disclosed by Lonka is disposed at a center in a direction perpendicular to a longitudinal direction of the vertical body (figure 2A).

Re claim 36, Lonka states that the release switch (8, circular shaped keys) performs an image capture (col. 3, lines 3-29).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Parulski et al. (US 6,122,526) discloses a cellular telephone and electronic camera system with programmable transmission capability. The information regarding the placement of the buttons and display of a telephone including a camera is relevant material.

Harris et al. (US 6,009,336) discloses a hand-held radiotelephone having a detachable display. The information regarding the placement of the buttons and display of a telephone including a camera is relevant material.

Reitmaa et al. (US 6,424,843) discloses a multi-function telecommunication device. The information regarding the placement of the buttons and display of a telephone including a camera is relevant material.

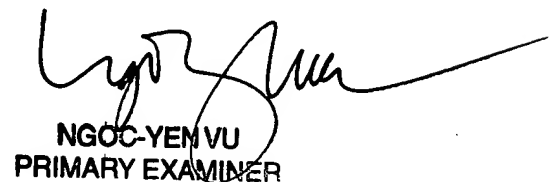
Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is (571) 272-7312. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Yen Vu can be reached on (571) 272-7320. The fax phone number for submitting all Official communications is 703-872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at (571) 273-7312.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KLJ



NGOC-YEN VU
PRIMARY EXAMINER